S.B. CIVIL WRIT PETITION NO.2099/2007
M/s. Bhagat Contractors
Vs.
The ACIT, Sawai Madhopur & Ors.

DATE OF ORDER : 24.5.2007

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

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Shri Sandeep Saxena for the petitioner
Ms. P. Jain for the respondents.

Heard learned counsel for the parties.

Learned counsel for the petitioner has submitted that in the present case, the respondents had issued a demand notice on 28.12.2006 for raising the demand of huge amount of Rs.50,77,746/- against the petitioner. The petitioner filed statutory appeal before the

Commissioner of Income Tax (Appeals) on 15.1.2007. He has submitted application before the Appellate Authority on 22.1.2007 for staying the demand till disposal of the appeal. The appellate authority however, did not accede to his prayer and the appeal has also not been decided so far.

It was argued that in similar circumstances and in relation to the assessment order against the same assessee, namely, the petitioner, albeit, in relation to the previous assessment order, the petitioner had earlier also approached this Court in S.B. Civil Writ Petition no.1751/2006 wherein this Court passed the following order :-

> “However, the appellate authority is directed to decide the appeal within a period of one month. Till the disposal of the appeal, no coercive steps so far as recovery is concerned, be taken against the petitioner. After passing the order on the appeal, the respondents are at liberty to proceed further”.

Learned counsel also invited my attention to Letter No.1/6/69-ITCC containing Instruction No.96, of the Central Board of Direct Taxes, wherein it has been directed that where the income determined on assessment was substantially higher than the returned income, say twice the latter amount or more, the collection of the tax in dispute should be held in abeyance till the decision on the appeal provided there were no lapses on the

part of the assesses. Learned counsel, therefore, submits that the respondents may be directed not to insist on recovery till the appeal is decided.

In the facts of the case, the appellate authority is directed to decide the appeal within three months within which period, however, no coercive steps shall be taken against the petitioner for recovery of the demand.

With these directions and observation, the writ petition is disposed of.

(MOHAMMAD RAFIQ),J.

Skant/-